

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

TQ DELTA, LLC,

*Plaintiff,*

v.

COMMSCOPE HOLDING COMPANY, INC.,  
COMMSCOPE INC., ARRIS US HOLDINGS,  
INC., ARRIS SOLUTIONS, INC., ARRIS  
TECHNOLOGY, INC., and ARRIS  
ENTERPRISES, LLC,

*Defendants.*

Civil Action No. 2:21-cv-310-JRG

**NOTICE OF SUPPLEMENTAL SUPPORT FOR  
COMMSCOPE’S MOTION TO TRANSFER**

Currently pending before the Court is Defendants CommScope Holding Company, Inc., CommScope, Inc., ARRIS US Holdings, Inc., ARRIS Solutions, Inc., ARRIS Technology, Inc., and ARRIS Enterprises, LLC (collectively, “CommScope” or “Defendants”) Opposed Motion to Transfer Venue to the District of Delaware (“CommScope’s Motion to Transfer”). Dkt. 32. Briefing has not closed on this motion. Plaintiff TQ Delta, LLC is conducting venue discovery and has not yet submitted a response to CommScope’s Motion to Transfer. CommScope files this notice to bring the Court’s attention to subsequent factual information that is relevant to CommScope’s Motion to Transfer.

Specifically, since the commencement of venue discovery, CommScope has retained Dr. Leonard J. Cimini, who has already been retained by CommScope’s subsidiary 2Wire and serves as an expert in the in the related Delaware case, *TQ Delta, LLC v. 2Wire, Inc.*, No. 13-cv-01835-RGA (D. Del.). Dr. Cimini resides in Delaware and is the primary caregiver for his wife who has

been ill for years. Declaration of Leonard J. Cimini (“Cimini Declaration”) (attached as Ex. A)

¶ 2. In August 2021, [REDACTED]

[REDACTED]

[REDACTED] *Id.* [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *Id.* [REDACTED] *Id.* It would be burdensome for Dr. Cimini to travel to Texas and stay for the duration of trial given his responsibilities as the primary caregiver for his wife. *Id.* ¶ 3. On the other hand, if trial of this case took place in Delaware, Dr. Cimini could easily travel to the federal court in the District of Delaware while also being able to offer normal care for his wife in Philadelphia. *Id.* ¶ 4.

To evaluate transfer under § 1404(a), courts first consider “whether a civil action ‘might have been brought’ in the destination venue.” *In re Volkswagen of Am. Inc.*, 545 F.3d 304, 312 (5th Cir. 2008). If so, courts weigh four private and four public factors to determine whether good cause exists to transfer the matter. *Id.* at 315. The private factors include: “(1) the relative ease of access to sources of proof; (2) the availability of compulsory process to secure the attendance of witnesses; (3) the cost of attendance for willing witnesses; (4) all other practical problems that make trial of a case easy, expeditious and inexpensive.” *Id.* CommScope submits the Cimini Declaration as relevant to at least factors (3) and (4) of the private interest factors, weighing in favor of transfer to the District of Delaware.

Dated this 31 day of January, 2022

Respectfully submitted,

By: /s/ Eric H. Findlay

Eric H. Findlay

State Bar No. 00789886

Brian Craft

State Bar No. 04972020  
FINDLAY CRAFT, P.C.  
102 N. College Ave, Ste. 900  
Tyler, TX 75702  
903-534-1100 (t)  
903-534-1137 (f)  
efindlay@findlaycraft.com  
bcraft@findlaycraft.com

Douglas J. Kline  
Christie Larochele  
GOODWIN PROCTER LLP  
100 Northern Avenue  
Boston, MA 02210  
P: (617) 570-1000  
F: (617) 523-1231  
dkline@goodwinlaw.com  
clarochelle@goodwinlaw.com

Brett Schuman  
Rachel M. Walsh  
GOODWIN PROCTER LLP  
Three Embarcadero Center, 28th Floor  
San Francisco, CA 94111  
P: (415) 733-6000  
F: (415) 677-9041  
bschuman@goodwinlaw.com  
rwalsh@goodwinlaw.com

Andrew Ong  
GOODWIN PROCTER LLP  
601 Marshall St.  
Redwood City, CA 94063  
P: (650) 752-3100  
F: (650) 853-1038  
aong@goodwinlaw.com

***Attorney for Defendants***

**CERTIFICATE OF SERVICE**

I hereby certify that on January 31, 2022, a true and correct copy of the foregoing document was electronically filed in compliance with Local Rule CV-5(a) and was served on all counsel who are deemed to have consented to electronic service, per Local Rule CV-5(a)(3).

/s/ Eric H. Findlay  
Eric H. Findlay

